

REMARKS

Claims 1-8 and 10-17 are pending in the application. Claims 1 and 16 have been amended. Favorable reconsideration of the application is respectfully requested in view of the amendments and following comments.

I. CLAIM REJECTIONS – 35 U.S.C. §103

Claims 1-8 and 10-17 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Hosokawa (JP 2001-275552 – Abstract and Machine Translation) in view of Hiroko (JP 09-149757 – Abstract only). The Examiner acknowledges that Hosokawa fails to explicitly disclose that the non-gelatinized flour is derived from roasted wheat flour. Nevertheless, it is the Examiner's position that it would have been obvious to have used roasted wheat flour, as taught by Hiroko, for the purpose of making a product with good solubility in the mouth and crispy texture.

Applicants respectfully traverse the rejection for at least the following reasons. Claims 1 and 16 have been amended to recite that the baked snack has no hole. Support for the amendment can be found in Examples in the description. Specifically, the baked snacks of Examples 1 and 2 did not have holes, while the baked snacks of Comparative Examples 1 and 2 had holes. In Examples 1 and 2, which are embodiments of the claimed baked snack, the problem of holes did not occur. This is due in part to the dough of the present invention being well stretched and elastic enough to remain in one piece, so that holes are not formed.

As previously discussed, in view of Hosokawa's description in paragraph [0079], those skilled in the art would understand that Hosokawa teaches that active gluten is usually needed in order to obtain dough which is well stretched and elastic enough to remain in one piece. Those skilled in the art would understand that dough of corn flour or rye flour would not be well stretched and elastic enough to remain in one piece, and would generate holes in the dough. Thus, if corn flour or rye flour is used without a large amount of wheat flour, the resultant baked snack would have many holes.

Further, in view of Tables 1 and 2 of Hiroko (JP 09-149757), it can be understood that if a higher amount of roasted wheat flour is formulated in the dough, the resultant

dough has a lower elasticity, and that when 100 % roasted wheat flour is used, the resultant mixed dough became crumbled. The crumbled dough is not well stretched or elastic enough to remain in one piece, such that holes would be generated in the dough. Consequently, the resultant baked snack would have many holes.

Thus, those skilled in the art would understand that if roasted flour is used instead of gluten-free flour in Hosokawa, the resultant dough would not be well stretched or elastic enough to remain in one piece, holes would be generated in the dough, and thus the resultant baked snack would have many holes. Thus, those skilled in the art would avoid using roasted wheat flour instead of gluten-free flour of Hosokawa. Those skilled in the art would not conceive to use roasted wheat flour instead of gluten-free flour of Hosokawa. Therefore, those skilled in the art would not be motivated to combine Hosokawa and Hiroko.

The Examiner has failed to establish a prima facie case of obviousness because one skilled in the art would not have had a reasonable expectation of success that using the roasted wheat flour of Hiroko as the ungelatinized flour of Hosokawa could produce a baked snack having a hollow stick shape with no holes. Because the Examiner has failed to establish a prima facie case of obviousness, the rejection of claims 1-8 and 10-17 under 35 U.S.C. §103(a) should be withdrawn.

II. CONCLUSION

For at least the foregoing reasons, claims 1-8 and 10-17 are believed to be allowable and the application is believed to be in condition for allowance. A prompt action to such end is earnestly solicited.

Should the Examiner feel that a telephone interview would be helpful to facilitate favorable prosecution of the above-identified application, the Examiner is invited to contact the undersigned at the telephone number provided below.

Should a petition for an extension of time be necessary for the timely reply to the outstanding Office Action (or if such a petition has been made and an additional extension is necessary), petition is hereby made and the Commissioner is authorized to

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charge any fees (including additional claim fees) to Deposit Account No. 18-0988,
reference number YAMAP0998US.

Respectfully submitted,

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